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S.B. CIVIL REVIEW PETITION NO.34/2007.
IN
S.B. CIVIL WRIT PETITION NO.946/2002.
Krishi Upaj Mandi Samiti, Pilibanga
Vs.
Prahalad Singh & Ors.

Date of Order :: 28th November 2007.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Sunil Ranwa for
Mr. Ravi Bhansali, for the petitioner.
Mr. J.S.Bhaleria for
Mr. H.S. Sidhu, for the respondent No.1 (writ petitioner)
Mr. R. Dave, Dy.G.A., for the respondents Nos. 2 & 3.

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BY THE COURT:

Heard learned counsel and perused the record.

The respondent No.1 herein, Prahalad Singh (writ petitioner) preferred the writ petition (No.946/2002) raising the grievance of denial of regular pay scale to him and questioning the order dated 06.02.2002. The writ petitioner submitted, inter alia, that he was initially appointed by the respondent on 15.11.1988 on the post of Chowkidar as daily wager; that his services were retrenched on 31.07.1989 without compliance of the requirements of Section 25 F of the Industrial Disputes Act, 1947 and, upon raising of industrial dispute, the Labour Court made award on 15.07.1999 declaring his retrenchment illegal and directing reinstatement with 50% back wages and the award attained finality with rejection of appeal by the

Division Bench of this Court and then with rejection of Special Leave Petition by the Hon'ble Supreme Court.

The writ petitioner contended that he was illegally being paid the wages only at Rs.60/- per day and it was also contended that a similarly circumstanced workman Lal Singh, who was also reinstated in pursuance to an award made by the Labour Court, was already fixed in regular pay scale of Chowkidar i.e., Rs.750-940 and was getting salary in the revised pay scale too.

This court disposed of the writ petition on 22.12.2006; and after noticing the facts aforesaid it was observed:-

> "The respondents though have not filed reply to the writ petition but has produced a copy of the order dated 4.1.1999. A bare perusal of the aforesaid order would reveal that the petitioner's services have now been regularized as chowkidar under the provisions of the Rule 3 of the Rajasthan Krishi Upaj Mandi Samiti (Employees) Rules, 1975. The order of regularization of petitioner's services having been passed, no grievance now survives in the present writ petition."

The respondent in the writ petition (Krishi Upaj Mandi Samiti, Pilibanga District: Hanumangarh) has filed this review petition essentially with the submissions that the aforesaid observations are beyond the record because no such order dated 04.01.1999 was issued in relation to the petitioner and he had not been regularized as observed by this Court. Learned counsel appearing for the writ petitioner and so also

the learned Deputy Government Advocate are at one with the submissions made by the review petitioner and submit that no such proposition is available on record that services of the petitioner have been regularized.

A perusal of the record of the writ petition makes out that the matter was argued on 07.12.2006 with the presence of the counsel for the petitioner but nobody appeared for the present review petitioner. It further appears that a photostat of the office order dated 04.01.1997 was filed by the counsel for the petitioner on 01.12.2006; and the said office order was taken into consideration by this Court while making the observations as reproduced supra, though for typographical error the date of the said office order has been mentioned as 04.01.1999 in place of the correct date i.e., 04.01.1997. Be that as it may, the fact remains that the said office order dated 04.01.1997 does not relate to the writ petitioner at all; and probably the same was placed on record by the counsel for the petitioner in support of the contention that services of the similarly circumstanced employee, namely Lal Singh, were regularized by the respondents.

The said office order dated 04.01.1997 does not relate to the petitioner is evident from the facts that his name does not find mention therein and then, admittedly, the matter of the writ petitioner was pending before the Labour Court on the

date of passing of the said office order; and the award in relation to the writ petitioner was made by the Labour Court only on 15.07.1999.

The order dated 22.12.2006 obviously discloses an error apparent on the face of the record and deserves to be recalled and the writ petition deserves to be considered on merits.

Accordingly, this review petition is allowed; the order dated 22.12.2006 made in S.B.Civil Writ Petition No.946/2002 is recalled; the said writ petition shall stand restored to its number and be placed for consideration appropriately.

(DINESH MAHESHWARI), J.

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